

THE LAW OFFICE OF

ELISA HYMAN, P.C.

June 2, 2022

The Honorable Paul G. Gardephe
United States District Court - Southern District of New York
40 Foley Square
New York, NY 10007

Re: N.C. v. New York City Department of Education, et al., 22-cv-2007 (PGG)

Dear Judge Gardephe:

I represent the Plaintiff in the above-referenced case and write jointly with counsel for the Defendants to submit this joint letter pursuant to Your Honor's Order and to respectfully request an extension of time *sine die* to submit a proposed Case Management Plan ("CMP") and an adjournment of the initial conference scheduled for June 9, 2022. ECF No. 9.

1. *Description of the Case*

Plaintiff N.C. is the parent of A.C., a young boy who is on the autism spectrum and requires special education services so that he can receive a free and appropriate public education ("FAPE") as required by the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. § 1400 *et seq.* In 2018, Plaintiff filed a due process complaint under the IDEA concerning A.C.'s special education. Ultimately, N.C. prevailed in the IDEA administrative hearing. Under the IDEA, Plaintiff, as the prevailing party in the administrative case, is entitled to have Defendants pay her reasonable attorney's fees. 20 U.S.C. § 1415(i)(3). The federal complaint seeks an award of these attorney's fees and costs, as well as the fees and costs incurred in this action.

Defendants do not dispute that Plaintiff is the prevailing party entitled to reasonable attorney's fees. On May 24, 2022, Plaintiff provided Defendants with her billing records and Defendants have begun the process of reviewing and evaluating the records for purposes of obtaining settlement authority.

2. *Anticipated Motions*

If this case is not able to settle, the parties anticipate filing a motion for summary judgment on the question of reasonable attorneys' fees and costs. The parties respectfully request a deferral of a motion schedule to allow time to discuss settlement of this action.

3. *Prospect for Settlement*

The parties have successfully resolved via settlement numerous claims for attorneys' fees and costs under the IDEA, without the need for motion practice. We believe we can do so here as

well. As previously indicated, Plaintiff has provided Defendants with her billing records for the underlying action and the instant federal action, so that the parties may engage in settlement discussions. Plaintiff also provided Defendants a proposed Stipulation of Settlement and Order of Dismissal. Defendants' counsel will need time to seek approval to negotiate settlement of Plaintiff's attorney's fees and costs. Given the time it will take to receive settlement approval of the fees, the parties propose submitting a status report in 60 days or no later than August 1, 2022, to allow the parties time to engage in settlement negotiations.

For these reasons, the parties respectfully request an adjournment *sine die* of the initial conference scheduled for June 9, 2022 and a corresponding extension of time to submit a CMP. We propose submitting a report on the status of settlement no later than August 1, 2022. We thank the Court for its consideration of the parties' joint requests herein.

Respectfully Submitted,
THE LAW OFFICE OF ELISA HYMAN, P.C.

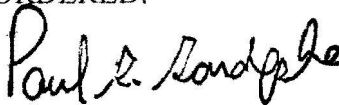
By: Erin O'Connor
Erin O'Connor, Esq., Of Counsel
Counsel for Plaintiffs

cc: Lauren Rubin, Esq., *Counsel for Defendants*, via ECF

MEMO ENDORSED:

The conference currently scheduled for June 9, 2022, is adjourned to **August 18, 2022, at 10:15 a.m.** By **August 1, 2022**, the parties will file a joint letter addressing the status of settlement.

SO ORDERED.



Paul G. Gardephe
United States District Judge
Dated: June 3, 2022